

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Application No.	:	10/585146	Confirmation No.	9933
Applicant	:	Kei Watanabe et al.		
Filed	:	June 30, 2006		
TC/A.U.	:	1796		
Examiner	:	Necholus Ogden, Jr.		
Title	:	Oil-Cleansing Composition		
Docket No.	:	IWI-16714		
Customer No.	:	007609		

DECLARATION UNDER 37 CFR §1.132

I am an inventor named in the above captioned application for patent, and hereby declare the following:

- 1 As explained in the background section of the present application, demand for oil-based cleansing compositions in the market has become very high, see [0003] of the application.
- 2 However, a significant drawback associated with oil-based cleansing compositions is that upon mixing with water, they tend to exhibit white turbidity. Such an appearance is undesirable to consumers as it is typically associated with decreased performance, see [0005] of the application.
- 3 As a result of the tendency for oil-based cleansing compositions to exhibit white turbidity upon mixing with water, such compositions typically, are not used in a bath setting by a user with wet hands, nor used on a wet face such as after shampooing hair, see [0006] of the application. As a consequence, the use of currently known oil-based cleansing compositions is restricted.
- 4 The claims in the above noted application are directed to an oil-based cleansing composition comprising (A) a nonionic surfactant having a HLB of 8 to 10, and (B) an oil

component. The IOB of (B) the oil component is 0.02 to 0.07. And the mass ratio of component (A) to component (B) is 1:4 to 2:1. Furthermore, the amount of water in the composition is less than 5% by mass. And, upon mixing the oil-based cleansing composition and water in a ratio of 4:6, a micellar aqueous solution phase or a bicontinuous microemulsion phase is formed.

5 A surprising and unexpected feature of the claimed oil-based cleansing compositions is that the cleansing compositions are transparent upon mixing with water in a ratio of 4:6.

6 The claims for the oil-based composition described in item 4 above were rejected for alleged obviousness based upon EP 1,488,775.

7 Many of the compositions described in the EP '775 document also suffer from exhibiting white turbidity upon mixing with water.

8 A series of oil-based cleansing compositions were prepared in accordance with the EP '775 document. Specifically, the compositions described in Examples 5-8 of EP '775 were prepared as set forth below in Table 1. Each of the compositions was mixed with water in a ratio of 4:6. And, as indicated in Table 1, each composition upon mixing with water, exhibited an undesirable white turbid appearance.

Table 1
Examples 5-8 (EP1488775)

	5	6	7	8
Glycerol monooleate	--	--	6	5.97
Glycerol monoisostearate	6.5	--	--	--
Safflower monoglyceride	--	4.63	--	--
Isostearyl-pentaerythryl glycer /l ether	--	4.63	--	--
POE(7) glyceryl-mono [coconut fatty acid]	--	16.54	--	--
Polyoxyethylene monolaurate	11.5	--	14.2	14.1
Decamethyl cyclopentasiloxane	21.5	--	20	19.94
Isotridecyl isononanoate	--	30.62	--	--
Liquid paraffin	54.8	45.9	54.8	42.97
Isopropyl palmitate	--	--	5	14.93
Purified water	1	0.98	3	1.09

Myristyl alcohol	4	1.33	--	--
Isostearic acid	0.7	--	--	1
Ratio of surfactant and oil (surfactant: oil)	1:4.5	1:3.68	1:3.89	1:3.93
Apparent condition (*1)	White turbidity	White turbidity	White turbidity	White turbidity
Phase equilibrium (*2)	Oil phase + Micellar aqueous solution (O/W emulsion)			

Notes to Table 1

- (*1) This is the appearance of the composition when mixed with water in a ratio of 4:6.
(*2) This is the phase state when the composition was mixed with water in a ratio of 4:6.

9 The phase state of each of the compositions in Table 1 corresponding to Examples 5-8 of EP '775, is an oil phase and micellar aqueous solution (O/W emulsion). This is a two phase system.

10. Each of the compositions set forth above in Table 1 corresponding to Examples 5-8 of EP '775, exhibited a white turbid appearance. As explained in items 2 and 3 herein, this appearance is undesirable.

11. In contrast, the oil-based cleansing compositions as recited in the claims of the present patent application and upon mixing with water in the noted ratio, are either in a micellar aqueous solution phase or a bicontinuous microemulsion phase and are transparent, as indicated in item 5 herein. These are both one phase systems.

12. I hereby declare that all statements made herein of my own knowledge are true and that all statements made on information and belief are believed to be true, and further, that these statements were made with the knowledge that willful false statements and the like, so made, are punishable by fine or imprisonment, or both, under 18 U.S.C. 1001 and that such willful false statements may jeopardize the validity of the application or any patent issuing thereon.

Respectfully submitted,

Feb. 23rd 2010
Date

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